

# Notice of Allowability

Application No.

10/715,839

Examiner

Eisa B. Elhilo

Applicant(s)

LAGRANGE ET AL.

Art Unit

1751

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filed on June 27, 2007.
2. ☒ The allowed claim(s) is/are 20,22,24-26,45,48,50-55,57-59,61-69,71,72 and 74-76.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 9/4/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Eisa Elhilo/  
Primary Examiner, A.U. 1751

9/6/2007

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### DETAILED ACTION

1 A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/27/2007 has been entered.

### EXAMINER'S AMENDMENT

2 An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Deborah M. Herzfeld on 9/4/2007.

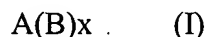
The application has been amended as follows:

#### **In the claims:**

Please cancel claims 21, 23, 27-44, 46-47, 49, 56, 70 and 73.

In claim 20, in line 1, after the word "dyeing" insert -- human--.

In claim 20, in line 6, after the word "pigment" insert -- wherein the at least one latent pigment is chosen from those of formula (I):



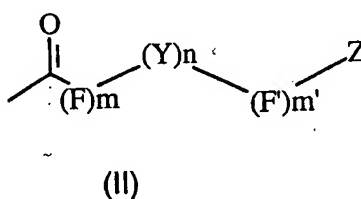
wherein:

x is an integer ranging from 1 to 8,

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A is the chromophoric radical of dyes comprising a hetero atom chosen from N, O and S, wherein

- when x is equal to 1, B is chosen from groups of formula (II),
  - when x is greater than 1, B is chosen from a hydrogen atom and groups of formula (II),
- with the proviso that when x is greater than 1, B is at least once a group of formula (II):



wherein

Z is chosen from cationic water-solubilizing groups  $Z^+$  and polyethylene glycol residues,

Y is a hetero atom chosen from N, O and S,

F and F', which can be identical or different, are chosen from linear and branched  $C_1$ - $C_{14}$  alkylene chains, which can optionally comprise hetero atoms and can optionally be substituted with at least one entity chosen from hydroxyl radicals, amino radicals, and halogens,

n, m and m', which may be identical or different are chosen from zero and 1, and B is linked to a hetero atom of the chromophore A. --

In claim 22, in line 1, replace "21" by --20--.

In claim 24, in line 1, replace "23" by --20--.

In claim 25, in line 1, replace "23" by --20--.

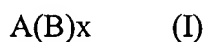
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In claim 26, in line 1, replace "23" by --20--.

In claim 26, in lines 2-5, delete " a dye radical chosen from perylene, quinaridone, dioxazine, isoindoline, indigo, bisisoindoline, phthalocyanin, pyrrolopyrrole, quinophthalone, azo, anthraquinone, indanthrone, isoindolinone, naphthoquinone, benzoquinone and azomethine radicals" and in line 2, after the term "A is" insert -- an azo dye radical--.

In claim 48, in line 1, after the word "dyeing" insert -- human--.

In claim 48, in line 12, after the word "drying" insert -- wherein the at least one latent pigment is chosen from those of formula (I):



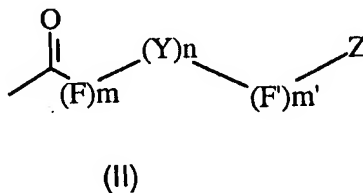
wherein:

x is an integer ranging from 1 to 8,

A is the chromophoric radical of dyes comprising a hetero atom chosen from N, O and S,

wherein

- when x is equal to 1, B is chosen from groups of formula (II),
  - when x is greater than 1, B is chosen from a hydrogen atom and groups of formula (II),
- with the proviso that when x is greater than 1, B is at least once a group of formula (II):



wherein

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Z is chosen from cationic water-solubilizing groups  $Z^+$  and polyethylene glycol residues,

Y is a hetero atom chosen from N, O and S,

F and F', which can be identical or different, are chosen from linear and branched  $C_1$ - $C_{14}$  alkylene chains, which can optionally comprise hetero atoms and can optionally be substituted with at least one entity chosen from hydroxyl radicals, amino radicals, and halogens,

n, m and m', which may be identical or different are chosen from zero and 1, and B is linked to a hetero atom of the chromophore A.--

In claim 50 in line 2, replace "49" by --48--.

In claim 55, in line 1, after the word "dyeing" insert -- human--.

In claim 55, in line 8, after the word "pigment" insert -- wherein the at least one latent pigment is chosen from those of formula (I):



wherein:

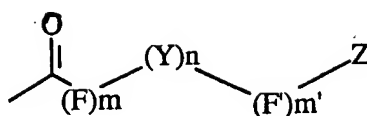
x is an integer ranging from 1 to 8,

A is the chromophoric radical of dyes comprising a hetero atom chosen from N, O and S,

wherein

- when x is equal to 1, B is chosen from groups of formula (II),
  - when x is greater than 1, B is chosen from a hydrogen atom and groups of formula (II),
- with the proviso that when x is greater than 1, B is at least once a group of formula (II):

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(II)

wherein

Z is chosen from cationic water-solubilizing groups  $Z^+$  and polyethylene glycol residues,

Y is a hetero atom chosen from N, O and S,

F and F', which can be identical or different, are chosen from linear and branched  $C_1$ - $C_{14}$  alkylene chains, which can optionally comprise hetero atoms and can optionally be substituted with at least one entity chosen from hydroxyl radicals, amino radicals, and halogens,

n, m and m', which may be identical or different are chosen from zero and 1, and B is linked to a hetero atom of the chromophore A. --

In claim 57, in line 1, replace "56" by -- 55--

In claim 58, in line 1, replace "56" by -- 55--

In claim 59, in line 1, replace "56" by -- 55--

In claim 59, in lines 2-5, delete " a dye radical chosen from perylene, quinaridone, dioxazine, isoindoline, indigo, bisisoindoline, phthalocyanin, pyrrolopyrrole, quinophthalone, azo, anthraquinone, indanthrone, isoindolinone, naphthoquinone, benzoquinone and azomethine radicals" and in line 2, after the term "A is" insert -- an azo dye radical--.

In claim 69, in line 1, after the word "dyeing" insert -- human--.

In claim 69, in page 21, in line 2, after the word "insoluble" insert --

wherein the at least one latent pigment is chosen from those of formula (I):

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wherein:

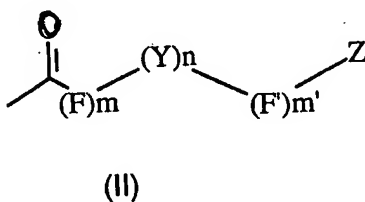
x is an integer ranging from 1 to 8,

A is the chromophoric radical of dyes comprising a hetero atom chosen from N, O and S,

wherein

- when x is equal to 1, B is chosen from groups of formula (II),
- when x is greater than 1, B is chosen from a hydrogen atom and groups of formula (II),

with the proviso that when x is greater than 1, B is at least once a group of formula (II):



wherein

Z is chosen from cationic water-solubilizing groups  $Z^+$  and polyethylene glycol residues,

Y is a hetero atom chosen from N, O and S,

F and F', which can be identical or different, are chosen from linear and branched  $C_1$ - $C_{14}$  alkylene chains, which can optionally comprise hetero atoms and can optionally be substituted with at least one entity chosen from hydroxyl radicals, amino radicals, and halogens,

n, m and m', which may be identical or different are chosen from zero and 1, and B is linked to a hetero atom of the chromophore A. --

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In claim 71, in line 2, replace "70" by -- 69--.

In claim 74, in line 2, replace "73" by --69--.

In claim 75, in line 2, replace "73" by -- 69--.

In claim 76, in line 2, replace "73" by --69--.

In claim 76, in lines 2-5, delete " a dye radical chosen from perylene, quinaridone, dioxazine, isoindoline, indigo, bisisoindoline, phthalocyanin, pyrrolopyrrole, quinophthalone, azo, anthraquinone, indanthrone, isoindolinone, naphthoquinone, benzoquinone and azomethine radicals" and in line 2, after the term "A is" insert -- an azo dye radical--.

3 Claims 20, 22, 24-26, 45, 48, 50-55, 57-59, 61-69, 71-72 and 74-76 are allowed.

#### STATEMENT OF REASONS FOR ALLOWANCE

4 The following is an examiner's statement of reasons for allowance:

The closest prior art of record (US 6,160,037) does not teach or disclose a process for dyeing keratin fibers comprising applying to the human keratin fibers a composition comprising a latent pigment of the claimed formula (I) that is soluble in a dyeing medium and then chemically, thermally or photochemically converted into a water-insoluble form when applied to the keratin fibers as claimed. Also the closest prior art of record (US' 037) does not teach or disclose a composition comprising at least one latent pigment of the claimed formula (I) and at least one compound chosen from alcohols (monoalcohols and polyols) and surfactants with a combination with at least one acidifying agent chosen from mineral and organic acidifying agents as claimed. Further, the prior art of record (US' 037) does not teach or disclose a kit for dyeing human keratin fibers comprising two compartments that comprise the compositions as



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claimed. Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of keratin fibers dyeing formulation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Eisa Elhilo/

Primary Examiner, A.U. 1751

September 6, 2007